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Attorneys for Defendants

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

SIERRA CLUB, INC., MINNESOTA  
CENTER FOR ENVIRONMENTAL  
ADVOCACY, NATIONAL WILDLIFE  
FEDERATION, and INDIGENOUS  
ENVIRONMENTAL NETWORK,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
STATE, HILLARY CLINTON, in her  
official capacity as Secretary of State,  
JAMES STEINBERG, in his official  
capacity as Deputy Secretary of State,  
and the UNITED STATES ARMY  
CORPS OF ENGINEERS,

Defendants.

) No. 3:09-cv-04086-SI

) **STIPULATION TO CONTINUE HEARING**  
) **DATE ON DEFENDANTS' MOTION TO**  
) **TRANSFER VENUE AND TO PERMIT**  
) **COUNSEL FOR DEFENDANTS TO**  
) **APPEAR TELEPHONICALLY**

) Hearing Date: September 25, 2009  
) Time: 9:00 am

) Hon. Susan Illston  
) U.S. District Judge

1 It is hereby stipulated by and between the Parties, through their respective counsel, and  
2 subject to the approval of the Court, that the hearing date on Defendants' Motion to Transfer Venue  
3 (Docket No. 44) shall be continued until Monday, September 28, 2009, at 10:30 a.m. The hearing  
4 is currently scheduled for Friday, September 25, at 9:00 a.m. As explained in the attached  
5 Declaration of Luther L. Hajek, Mr. Hajek and co-counsel David Glazer are both unavailable on  
6 September 24 and 25, 2009, due to a long scheduled U.S. Department of Justice training program  
7 on those days. The undersigned counsel spoke by telephone with Sarah Burt, counsel for Plaintiffs,  
8 who indicated that Plaintiffs do not object to continuing the hearing date as long as the motion can  
9 be heard on September 28 or 29, 2009. The undersigned counsel also spoke by telephone with  
10 David Coburn, counsel for proposed Intervenor, who agreed to continue the hearing to September  
11 28, 2009.

12 This is the Parties' first request for an extension of the hearing on Defendants' Motion to  
13 Transfer Venue, and no other requests for extensions have been made in the case. Granting the  
14 requested extension would delay hearing of the motion by only one business day.

15 The parties also stipulate, subject to the approval of the Court, that counsel for Defendants,  
16 Luther L. Hajek, may appear at the hearing telephonically. The undersigned counsel spoke with Ms.  
17 Burt and Mr. Coburn, and both had no objection to Mr. Hajek appearing by telephone at the hearing.  
18 Should the Court grant the request, Mr. Hajek can be reached by telephone during the hearing at  
19 (202) 305-0492. Mr. Glazer will not be able to participate in the hearing due to Yom Kippur, but  
20 an attorney from the U.S. Attorney's Office for the Northern District of California will be present  
21 in the courtroom.

22 Counsel for Plaintiffs has reviewed the instant Stipulation and has authorized counsel for  
23 Defendants to sign on their behalf. Counsel for proposed Intervenor has reviewed the Stipulation  
24 and approves of its filing. A Proposed Order approving this Stipulation is attached.

25 Respectfully submitted this 18th day of September, 2009.

26 JOHN C. CRUDEN  
27 Acting Assistant Attorney General  
28 Environment & Natural Resources Division

/s/ Luther L. Hajek

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Attorneys for Defendants

/s/ Sarah H. Burt

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J. MARTIN WAGNER (CA Bar No. 190049)  
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Fax: (510) 550-6740

**CERTIFICATE OF SERVICE**

I, Luther L. Hajek, hereby certify that on September 18, 2009, I electronically filed the foregoing STIPULATION TO CONTINUE HEARING DATE ON DEFENDANTS' MOTION TO TRANSFER VENUE AND TO PERMIT COUNSEL FOR DEFENDANTS TO APPEAR TELEPHONICALLY, DECLARATION OF LUTHER L. HAJEK, and PROPOSED ORDER with the Clerk of Court using the CM/ECF system, which will automatically send email notification to all attorneys of record whose e-mail addresses are listed below:

[mwagner@earthjustice.org](mailto:mwagner@earthjustice.org)

[sburt@earthjustice.org](mailto:sburt@earthjustice.org)

[kreuther@mncenter.org](mailto:kreuther@mncenter.org)

[eric.huber@sierraclub.org](mailto:eric.huber@sierraclub.org)

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[jsmith@steptoe.com](mailto:jsmith@steptoe.com)

/s/ Luther L. Hajek  
Luther L. Hajek

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UNITED STATES DEPARTMENT OF  
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JAMES STEINBERG, in his official  
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CORPS OF ENGINEERS,

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) No. 3:09-cv-04086-SI

) **DECLARATION OF LUTHER L. HAJEK**  
) **IN SUPPORT OF STIPULATION TO**  
) **CONTINUE HEARING DATE ON**  
) **DEFENDANTS' MOTION TO TRANSFER**  
) **VENUE AND TO PERMIT COUNSEL FOR**  
) **DEFENDANTS TO APPEAR**  
) **TELEPHONICALLY**

) Hearing Date: September 25, 2009  
) Time: 9:00 am

) Hon. Susan Illston  
) U.S. District Judge

1 I, Luther L. Hajek, hereby declare as follows:

2 1. I am an attorney in good standing of the bar of the District of Columbia, and I am  
3 employed as a trial attorney with the United States Department of Justice, Environment and  
4 Natural Resources Division, Natural Resources Section. I am the attorney of record assigned to  
5 represent the Defendants in this action. I submit this declaration in support of the parties'  
6 Stipulation to Continue Hearing Date on Defendants' Motion to Transfer Venue and to Permit  
7 Counsel for Defendants to Appear Telephonically.

8 2. On September 9, 2009, the Court issued an order setting a briefing schedule for  
9 Defendants' Motion to Transfer Venue and setting a hearing for September 25, 2009. See  
10 Docket No. 35.

11 3. Lead counsel for Defendants, Luther L. Hajek, and co-counsel, David Glazer, are  
12 both scheduled to attend U.S. Department of Justice training on September 24-25, 2009. The  
13 training will be attended by all members of the Environment and Natural Resources Division,  
14 Natural Resources Section, of which Mr. Hajek and Mr. Glazer are both members. The training  
15 takes place every two years and involves the Section's attorneys from around the country. The  
16 training has been scheduled for many months and the Section makes every effort to avoid case  
17 conflicts with the training.

18 4. On September 16, 2009, I spoke with Sarah Burt, counsel for Plaintiffs, and she  
19 agreed to a continuance of the hearing as long as it could be held on September 28 or 29, 2009.  
20 On September 17, 2009, I spoke with David Coburn, counsel for proposed Intervenor, and he  
21 agreed to holding the hearing on September 28, 2009. Neither Ms. Burt nor Mr. Coburn objects  
22 to counsel for Defendants appearing by telephone at the hearing. Mr. Hajek's telephone number  
23 is: (202) 305-0492.

24 5. None of the parties in the case has previously sought an extension of any Court  
25 deadline.

26 6. The requested continuance would result in the hearing being delayed by one  
27 business day.

1 Executed on September 18, 2009, at Washington, DC.

2 /s/ Luther L. Hajek  
3 LUTHER L. HAJEK  
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) **PROPOSED ORDER APPROVING**  
) **STIPULATION TO CONTINUE HEARING**  
) **DATE ON DEFENDANTS' MOTION TO**  
) **TRANSFER VENUE AND TO PERMIT**  
) **COUNSEL FOR DEFENDANTS TO**  
) **APPEAR TELEPHONICALLY**

) Hearing Date: September 25, 2009  
) Time: 9:00 am

) Hon. Susan Illston  
) U.S. District Judge



**[PROPOSED] ORDER**

Upon consideration of the parties' Stipulation to Continue Hearing Date on Defendants' Motion to Transfer Venue and to Permit Counsel for Defendants to Appear Telephonically and finding that good cause exists for the Stipulation to be approved, it is hereby ORDERED that the Stipulation is APPROVED, and it is further

ORDERED that the hearing on Defendants' Motion to Transfer Venue currently scheduled for September 25, 2009 at 9:00 a.m. is rescheduled for September 28, 2009 at 10:30 a.m., and it is further

ORDERED that counsel for Defendants may appear telephonically at the hearing.

IT IS SO ORDERED

Dated: \_\_\_\_\_, 2009.



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The Honorable Susan Illston  
United States District Court Judge